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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

	X
CIT BANK, N.A.,	:
	:
Plaintiff,	:
	:
-against-	:
	:
ADAM JACH and MORTGAGE ELECTRONIC	:
REGISTRATION SYSTEMS, INC., AS	:
NOMINEE FOR INDYMAC BANK, FSB,	:
	:
Defendant.	:
	X

Case No.: 15-cv-5814 (KAM)(RLM)

**DECLARATION OF ANDREI A. POPESCU IN OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

ANDREI A. POPESCU, an attorney duly licensed to practice law in the State of New York, and in the United States District Court, Eastern District of New York, hereby declares that the following is true, under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am the attorney for ADAM JACH, a Defendant herein, and, as such, I am fully familiar with the facts and all proceedings heretofore had herein.
2. I respectfully submit this Declaration in Opposition to the Plaintiff's instant motion for summary judgment.
3. The following Exhibits are annexed hereto:

**EXHIBIT "A"** is a copy of Plaintiff's prior motion for summary judgment and for an Order of Reference, dated July 12, 2012, in the action Onewest Bank, FSB v. Jach, et al., in the

Supreme Court of the State of New York, County of Richmond, Index No.: 130909/2010

(hereinafter the “First Action”), with the following exhibits:

EXHIBIT “A”- Notice of Pendency and Summons and Complaint in the First Action;  
EXHIBIT “B”- Adjustable Rate Note dated July 12, 2007;  
EXHIBIT “C”- Assignment of Mortgage dated May 27, 2010 and Mortgage dated July 12, 2007;  
EXHIBIT “D”- Affidavits of Service;  
EXHIBIT “E”- Verified Answer dated July 13, 2010;  
EXHIBIT “F”- Default Notices;

**EXHIBIT “B”** is a copy of the State Court’s Order dated December 10, 2012, dismissing the First Action for lack of standing, without prejudice;

**EXHIBIT “C”** is a copy of Plaintiff’s Summons and Complaint, dated February 28, 2014, in the action Onewest Bank, FSB v. Jach, et al., in the Supreme Court of the State of New York, County of Richmond, Index No.: 135114/2014 (hereinafter the “Second Action”);

**EXHIBIT “D”** is a copy of and Order of Reference in the Second Action, dated October 7, 2014, referring the matter to a Special Referee to hear and report on “standing and any other related issues”);

**EXHIBIT “E”** is a copy of the Transcript of the Hearing held in the Second Action, before Special Referee Peter Geis, on December 3, 2014;

**EXHIBIT “F”** is a copy of the Report and Recommendation of Special Referee Geis, dated January 20, 2015;

**EXHIBIT “G”** is a copy of Richmond County Supreme Court’s Docket Report is the Second Action;

**EXHIBIT “H”** is a copy of the Plaintiff’s motion in the Second Action, dated September 16, 2016, seeking 1) discontinuance of that action, and 2) cancellation of the *Lis Pendens* therein;

**EXHIBIT "I"** is a copy of the Deposition Transcript of Plaintiff's client representative,

Ronald Cafone, dated June 13, 2016, with the following deposition exhibits:

Defendant's Exhibit "A"- Plaintiff's Response to Defendant's First set of Interrogatories, dated June 10, 2016;

Defendant's Exhibit "B"- Defendant's Notice of Deposition dated May 19, 2016;

Defendant's Exhibit "C"- Defendant's Notice of Deposition dated May 19, 2016;

Defendant's Exhibit "D"- Adjustable Rate Note dated July 12, 2007;

Defendant's Exhibit "E"- Mortgage dated July 12, 2007;

Defendant's Exhibit "F"- Assignment of Mortgage dated May 27, 2010;

Defendant's Exhibit "G"- Assignment of Mortgage dated July 23, 2010;

Defendant's Exhibit "H"- Corrective Assignment of Mortgage dated December 23, 2013;

**EXHIBIT "J"** is a copy of Defendant JACH's Notice of Deposition Upon Written

Questions, dated June 28, 2016, with the following deposition exhibits:

Defendant's Exhibit "1"- Adjustable Rate Note, dated July 12, 2007;

Defendant's Exhibit "2"- Mortgage, dated July 12, 2007;

Defendant's Exhibit "3"- Assignment of Mortgage, dated May 27, 2010;

Defendant's Exhibit "4"- Assignment of Mortgage, dated July 23, 2010;

Defendant's Exhibit "5"- Corrective Assignment of Mortgage, dated December 23, 2013;

Defendant's Exhibit "6"- Plaintiff's Response to Defendant's First Sct of Interrogatories, dated June 10, 2016;

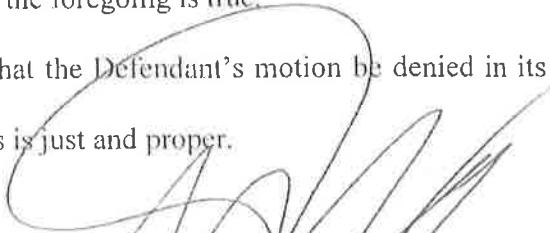
**EXHIBIT "K"** is a copy of Plaintiff's Response to Defendant JACH's Notice of Deposition Upon Written Questions; dated July 13, 2016.

4. I declare under penalty of perjury that the foregoing is true.

WHEREFORE, it is respectfully requested that the Defendant's motion be denied in its entirety, together with such other and further relief as is just and proper.

Dated: Brooklyn, New York

October 17, 2016

  
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